

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.11509 of 1998

Date of Decision: August 14, 2018

Hari Singh

..... Petitioner

Versus

Secretary to Government Punjab & Anr.

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. M.L.Saggar, Senior Advocate with
Mr. Rohit Joshi, Advocate for the Petitioner.

Mr. Sandeep Virmani, Addl. A.G. Punjab.

Mr. Sandeep Khunger, Advocate for Respondent No.2.

SUDIP AHLUWALIA, J.

The petitioner here seeks a Writ of Mandamus to direct the Respondents to deliver possession by demarcation and to sanction the building plan of Plot No.51-A situated at Raj Guru Nagar Scheme, Ludhiana.

2. He claims to have acquired the said Plot by way of transfer from one Smt. Sawitri Rani, daughter of one Gokal Chand, to whom the said plot measuring 500 Square Yards had been allotted in the category of Local Displaced Persons by the Ludhiana Improvement Trust (Respondent No.2). The sale price in lieu of such allotment had been fixed at the rate of Rs.201/- per Square Yard thus coming to Rs.1,00,500/-, which the said

Sawitri Rani had deposited on 5.9.1990 and 17.12.1990. Thereafter, she deposited an additional amount of Rs.3200/- on 20.2.1991 followed by a further amount of Rs.9000/- on 15.3.1991 for transferring the said plot in the name of petitioner, which was accordingly done on 18.3.1991. The Petitioner thereafter requested the Director, Local Bodies, Punjab for sanctioning of his building plan on 22.7.1992 and deposited Rs.500/- as B.P. Fees. He was however, informed on 18.3.1991 that his building plan could not be sanctioned due to non arrival of the Sale Report in his favour. He thereafter again requested for sanction of his building plan on 6.3.1995 and 18.3.1995, but when no action was taken, he sent a Legal Notice for that purpose to Respondents No.2 on 10.5.1995. The Respondents however, still did not act on account of which he approached this Court by way of CWP No.9118 of 1997, which was disposed off with the direction -

“We deem it appropriate to direct the respondents to decide the application of the petitioner for sanction of Building plan within one month of the submission of the certified copy of this order together with a copy of the writ petition.

In case, it is found that the petitioner is not entitled to have his building plan sanctioned, then a reasoned order shall be communicated to the petitioner within the aforesaid period of one month”

3. The petitioner thereafter communicated the aforesaid order for compliance to the Respondent/Ludhiana Improvement Trust on 7.8.1997. However, the Trust/Respondent vide its letter dated 26.9.1997 that allotment of the plot made by the then Chairman Shri B.D.Aggarwal had

been enquired into by the Head Office at Chandigarh, and as per direction of the Government, the market value of the plot was required to be obtained and the plot restored, on account of which, a meeting of the Committee had been called on 22.9.1997, and so action on the application for sanction of the building plan would be taken after the market rate of the property was decided. In response the Petitioner wrote to the Respondent/Trust that his building plan may be sanctioned without prejudice to the rights of the parties and the record pertaining to the alleged unilateral decision at the request of the Government regarding market value of the plot may be shown, as he was not aware of any of the proceedings mentioned in the letter dated 26.9.1997 issued by the Trust. In reply, the Trust again informed the Petitioner that the action of his application for sanctioning of the building plan would be taken after the decision in the forth coming meeting of the Trust was arrived at. The Petitioner thereafter sought inspection of the Trust's record, by his letter dated 15.1.1998. He was however, not given access to the record nor any action on his application for sanctioning of the building plan was taken, which therefore, constrained him to file the present Writ Petition.

4. His claim was contested on behalf of Respondent No.2 which filed its Written Statement followed by a separate affidavit of the Erstwhile Estate Officer of the Ludhiana Improvement Trust Shri L.D.Gupta. The sum and substance of the reply of the Respondents is that there was a wholesale irregularity in the matter of allotment of plots under the Locally Displaced Persons Category imputable to the then Chairman of the Ludhiana

Improvement Trust Shri B.D.Aggarwal, who had made such allotments whimsically and irregularly without following the prescribed procedures inasmuch as neither any advertisement inviting applications for such allotments was issued, nor the same were made in pursuance of any regular Resolution by the competent Committee Members.

5. Consequently, there were complaints against the concerned Chairman/Official of the Improvement Trust about the commission of grave irregularities in the matter of allotment of plots to the Local Displaced Persons, after which the Government stayed the allotment of those plots till formulation of the Policy Guidelines in that behalf. The final directions were thereafter conveyed to the Improvement Trust of Ludhiana and Amritsar vide the Impugned Memo dated 2.5.1995 (Annexure R-2/1) in which as many as 413 cases of actual allotments were dealt with in Annexures-A to F of the said Memo, while another 641 cases were dealt with in Annexures-G and H pertaining to the pending applications for similar allotment concerning Ludhiana alone.

6. The Writ Petition was admitted by this Court on 11.8.2000 and the realization of the additional price was ordered to be stayed on that date with the following conditions -

“(a) If the writ petition is allowed, the amount shall be refunded to the petitioner with interest @ 18% per annum.

(b) If the writ petition is dismissed, the petitioner shall have to deposit the amount with interest @ 18% from the date of demand.

After the deposit of 50% amount, the petitioner may make an application for delivery of possession and sanction of the building plan. The same shall be decided within next one month. The possession of the site, if already not handed over, be delivered to the petitioner within one month of the receipt of application.”

7. After hearing submissions of Ld. Counsel for both the sides and having perused the available material on record, we find no reason to grant the prayer of the Petitioner as made in this Writ Petition. There can be no denial that allotment in favour of Sawitri Rani was visibly tainted and in violation of the prescribed procedure. The concerned Chairman of the Improvement Trust at the relevant time appears to have indulged in wholesale allotment of such plots at his own level without following the established procedure under the Rules. That in itself could have been a ground to cancel the allotments by the Superior Authorities/Government. However, considering the huge number of instances regarding the irregularities/illegalities in the matter of allotment of plots for Locally Displaced Persons in the Districts of Ludhiana and Amritsar, purely as a one time measure, the Government vide its impugned Memo (Annexure R-2/1) directed regularization of the various allotments as well as cancellation of the same. The case of the disputed Plot No.51-A is covered in direction/guidelines No. (iii) of the aforesaid Memo, which are set out as below -

iii) *In 43 cases, more than one plot has been allotted against a Joint-Khata. These allotments have been made under 'The Ludhiana Improvement Trust Land Disposal Rules, 1964', which are ambiguous on this point. Under the Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules,*

1983 which are operative now, only one plot can be allotted against a joint khata. Therefore, these allotments are not in accordance with the rules and deserve to be cancelled by following the procedure as laid down under the rules. However, it has been noted that in cases, as detailed in Annexure 'C' where payments have been fully/partly made, agreements etc., have also been executed and possession have also been delivered, in such cases cancellation though technically right would only be a paper cancellation and lead to prolonged litigation. As a onetime measure, therefore, such cases of allotments of more than one plot to a joint khata holder where possession has been delivered, payments have been fully or partly accepted and agreements etc., has been entered into, allottee may be given an offer to have this allotment regularized, on payment of market price prevailing on the date of allotment, which would be assessed by the Deputy Commissioner. This is only a onetime measure and would not be precedent for dealing with similar cases in future. In the remaining cases, where no payment has been made nor any document has been executed nor possession delivered the allotments may be cancelled by following procedure as laid down under the rules.” (Emphasis added)

8. It is seen from the noting in Annexure 'C' to the Memo No.5/245/95-2 LGII/6195 dated 2.5.1995 (Annexure R-2/1), that it was specifically noted that in relation to the disputed plot No.51-A allotted to Smt. Sawitri Rani under the 129 Acre Development Scheme, the land of her father Gokal Chand had been actually acquired but that his legal heirs were allotted plots individually, whereas according to the aforesaid Guidelines only one plot ought to have been allotted against the acquisition from a joint khata.

9. In this view of the matter, we find that the allottee has been dealt with rather leniently by way of permitting regularization of the allotted plot and

payment of the market price prevalent on the date of allotment, which was directed to be assessed by the Deputy Commissioner. The approach adopted by the Government can thus not be faulted, not at least by the Petitioner who happens to be the second purchaser of a plot, of which the legality of the original allotment itself was questionable.

10. For the aforesaid reasons, the present Writ Petition is dismissed and the Petitioner is directed to pay the balance amount outstanding. In the interest of justice, however, considering the long delay involved and the consequent financial hardship arising, the initial condition of imposition of interest at the rate of 18% per annum as directed in the earlier order dated 11.8.2000 is reduced to 9% per annum only, which shall be paid by the Petitioner alongwith outstanding balance within the next three months.

(SURYA KANT)
JUDGE

(SUDIP AHLUWALIA)
JUDGE

August 14, 2018
AS

1. Whether speaking/reasoned ? Yes/No

2. Whether reportable ? Yes/No